

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Case No. 22-cr-0030 (WMW)

Plaintiff,

ORDER

v.

Ali Fazil Ali,

Defendant.

This matter is before the Court on Defendant Ali Fazil Ali's motion for an extension of time to file an appeal. (Dkt. 48.) At a June 28, 2022 final revocation hearing, the Court sentenced Ali to a six-month term of imprisonment to be followed by additional supervised release. The Court entered a sentencing judgment on June 29, 2022. Defense counsel represents that, after the hearing, Ali directed his counsel to file an appeal. On July 11, 2022, defense counsel requested transcripts of the revocation proceedings. On August 10, 2022, Ali filed a notice of appeal and the pending motion for an extension of time.

"[A criminal] defendant's notice of appeal must be filed in the district court within 14 days after . . . entry of either the judgment or the order being appealed." Fed. R. App. P. 4(b)(1)(A)(i). A district court may extend this deadline "for a period not to exceed 30 days from the expiration of the time otherwise prescribed" if the court makes "a finding of excusable neglect or good cause." Fed. R. App. P. 4(b)(4). Although courts disfavor findings of excusable neglect based on "garden-variety attorney inattention," the United States Court of Appeals for the Eighth Circuit has recognized that "Congress plainly

contemplated” the ability of courts to, when appropriate, “accept late filings caused by inadvertence, mistake, or carelessness.” *Gibbons v. United States*, 317 F.3d 852, 855 (8th Cir. 2003) (quoting *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 388 (1993)).

Because the Court entered the operative sentencing judgment on June 29, 2022, Ali’s deadline to file a notice of appeal of that judgment was July 13, 2022. Fed. R. App. P. 4(b)(1)(A)(i). Thus, the notice of appeal that Ali filed on August 10, 2022, is untimely unless the Court grants Ali’s motion for an extension of time. *Id.*; Fed. R. App. P. 4(b)(4). Defense counsel represents that the late filing was caused by “a communication breakdown between staff and counsel.” These circumstances do not evince a “marked indifference to a pending matter.” *Gibbons*, 317 F.3d at 854. Notably, defense counsel requested transcripts of the revocation proceedings on July 11, 2022, which indicates that Ali intended to appeal and that his counsel attempted to complete the necessary procedural steps. Thus, the Court concludes that Ali’s motion presents good cause for an extension. Fed. R. App. P. 4(b)(4). Consequently, the deadline for Ali to appeal was August 12, 2022.

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that Defendant Ali Fazil Ali’s motion for an extension of time, (Dkt. 48), is **GRANTED**.

Dated: August 24, 2022

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge